

MICHIGAN DEPARTMENT OF CORRECTIONS <b>POLICY DIRECTIVE</b> SUBJECT ADMINISTRATIVE RULES, POLICIES AND PROCEDURES	EFFECTIVE DATE 02/12/2001	NUMBER 01.04.110
	SUPERSEDES 01.04.110 (11/04/99)	
	AUTHORITY MCL 791.203; 791.206	
	ACA STANDARDS 2-1014; 3-3006; 3-3019; 3-3020; 3-4004; 3-4013; 3-4014; 3-4015; 3-ACRS-1A-04; 3-ACRS-1A-11; 3-ACRS-1A-12; 3-ACRS-1C-01; 2-CO-1A-05; 2-CO-1A-16; 2-CO-1A-17; 1-CTA-1A-03; 1-CTA-1A-11; 1-CTA-1A-12	
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## POLICY STATEMENT:

Administrative rules, policy directives, Director's Office Memoranda (DOMs), and operating procedures shall be followed by all employees when carrying out their duties.

## POLICY:

### GENERAL INFORMATION

- A. All employees must be informed of Department policies as well as necessary procedures to carry out these policies. They also need to understand the legal constraints within which they are to function.
- B. Employees shall be advised of the necessity of complying with policy and laws pertaining to the Department because non-compliance may leave the Department liable and employees vulnerable to prosecution and civil suit, as well as disciplinary action. Failure to follow policy may also result in an employee not being represented by the Department of Attorney General or not being indemnified by the Department if a monetary judgment is obtained against the employee as set forth in PD 02.01.102 "Litigation - Department and Employee Responsibilities".
- C. All administrative rules, policy directives, DOMs and operating procedures shall be prepared using sex-neutral terminology.

### ADMINISTRATIVE RULES

- D. An administrative rule is promulgated under the Administrative Procedures Act (APA) and has the full force of law. Some policy directives and DOMs are based on an administrative rule although the administrative rule always takes precedence. The Policy and Rules Development Division (PRDD) in the Office of Policy and Hearings is responsible for the promulgation of administrative rules.

### POLICY DIRECTIVES AND DOMS

- E. Department policy is contained in policy directives and DOMs. Both set forth the Department's position on a given subject. Each policy directive and DOM must derive authority from statute, administrative rule or court order, and must be consistent with applicable statutes and administrative rules. A policy directive or a DOM may be necessary to clarify or implement an administrative rule. Policy directives and DOMs shall be prepared by the PRDD and signed only by the Director.

### Development and Revision of Policy Directives

- F. Executive Policy Team (EPT) members shall be responsible for advising the PRDD of the need to write or revise a policy directive for their respective areas. The EPT member shall designate a contact person knowledgeable of the subject addressed in the policy directive to work with the PRDD in developing the policy. The contact person also shall be responsible for approving the content of the draft policy directive.

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- G. The PRDD shall send drafts of proposed new and revised policy directives to the Administrative Management Team and Wardens for review and comment, identifying the date by which comments are due. Department administrators receiving draft policy directives for comment shall ensure that appropriate staff in their respective areas have an opportunity to review the drafts and provide comment. Department administrators shall send relevant comments to the PRDD by the date specified in the transmittal.
- H. The PRDD may send additional persons or organizations drafts of new or revised policy directives that are not exempt under the Freedom of Information Act (FOIA). The decision on whether a policy directive is exempt from disclosure under the FOIA shall be made by the Director or designee.
- I. Comments received on a new or proposed draft policy directive shall be incorporated into the draft by the PRDD, as appropriate. The contact person for the policy directive shall be consulted on any substantive issues raised.
- J. To ensure consistency in content and compliance with legal requirements, the Policy Review Committee shall meet with PRDD staff, the contact person and other designated staff to review each new or revised policy directive. The Committee shall be comprised of the Executive Assistant to the Director, the Administrator of the Office of Policy and Hearings and the Manager of the Internal Audit Section of the Office of Audit, Internal Affairs and Litigation.
- K. Notwithstanding Paragraphs G, H and J, a policy directive may be issued without distribution for comment and/or without submission to the Policy Review Committee, as determined by the Director or designee.
- L. Policy directives shall be self audited as set forth in PD 01.05.100 "Self Audit of Policies and Procedures". A Primary Audit Elements List shall be developed for each policy directive revised or created after April 1, 1994 which requires self-auditing to assist in this process. The List shall be provided by the PRDD to the administrator of each area responsible for ensuring compliance with the policy.

#### Development of DOMs

- M. The Director may issue a DOM instead of a policy directive to set forth new or revise existing policy. All requests for a DOM shall be submitted to the PRDD through the Executive Assistant to the Director.
- N. A DOM shall be in effect only for the calendar year in which it is issued, but may be renewed each January by the Director. The PRDD shall be responsible for ensuring that the contents of a DOM are incorporated into applicable policy directives, as necessary.

#### OPERATING PROCEDURES

- O. An operating procedure implements, and derives authority from, an administrative rule, a policy directive or a DOM. If an operating procedure is required to implement a policy directive or DOM, that requirement shall be set forth in the policy directive or DOM.
- P. An operating procedure is not to be issued as a substitute for an administrative rule, policy directive or DOM. Procedures identify who does what and when to implement a rule, policy directive or DOM. The "WHO DOES WHAT" format need only be used when specific positions have responsibility for different tasks.
- Q. Each Administration is responsible for preparing its own operating procedures. Authors of operating procedures are encouraged to solicit input from employees and organizations affected by the procedure for consideration of appropriate revisions.

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- R. An EPT member may issue procedures which only affect his/her Administration. An EPT member may delegate the authority to issue procedures which only affect a region or facility within his/her Administration to the appropriate Regional Administrator, Regional Prison Administrator, Regional Health Administrator or Warden. Each EPT member, Regional Administrator, Regional Prison Administrator, Regional Health Administrator and Warden shall ensure that a unique identifying number is assigned to each procedure s/he issues. Copies of all CFA facility operating procedures must be filed with the appropriate RPA.
- S. All operating procedures developed in Central Office which cross administration lines shall be forwarded to the Executive Assistant to the Director for issuance by the Director. An EPT member may be delegated the authority to issue the procedure if the Director or designee determines that the procedure does not require Department-wide distribution.

#### DISTRIBUTION

- T. The PRDD shall ensure that new and revised policy directives, DOMs, and operating procedures signed by the Director are sent to all Department manual holders and, except for those exempt under FOIA, to all other manual holders. The PRDD also shall ensure that new and revised administrative rules are sent to all Department manual holders.
- U. Operating procedures developed in Central Office which do not require Department-wide distribution shall be distributed to all staff affected by the procedure by the appropriate Administration, unless otherwise directed by the Executive Assistant to the Director. A copy also shall be provided to the PRDD.
- V. EPT members, Regional Prison Administrators, Regional Administrators, Regional Health Administrators and Wardens shall ensure that all operating procedures s/he issues are distributed in a timely manner to all staff affected by the procedure.
- W. Administrative rules, policy directives, DOMs and applicable operating procedures shall be readily available to all employees. Employees designated to receive policy directives, DOMs and operating procedures shall maintain updated manuals for these documents.
- X. EPT members shall ensure their employees have been fully advised as to the contents of new and revised administrative rules, policy directives, DOMs and operating procedures, affecting their area of responsibility.

#### OVERSIGHT

- Y. The PRDD shall be responsible for the following:
  - 1. Maintaining the original of all DOMs, policy directives, and operating procedures issued by the Director.
  - 2. Distributing documents as specified by this policy directive.
  - 3. Maintaining a current distribution list for administrative rules, DOMs, policy directives, and operating procedures issued by the Director.
  - 4. Maintaining a numbering system for DOMs, policy directives, and operating procedures issued by the Director.
  - 5. Maintaining an index for DOMs, policy directives, and operating procedures issued by the Director or by an EPT member. Operating procedures issued by an EPT member shall be identified separately from those operating procedures issued by the Director.

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- Z. Each EPT member, Regional Prison Administrator, Regional Administrator, Regional Health Administrator and Warden shall be responsible for the following:
1. Maintaining the original of all operating procedures s/he issues.
  2. Distributing operating procedures as specified by this policy.
  3. Maintaining a current distribution list for all operating procedures s/he distributes.
  4. Maintaining a numbering system for all operating procedures s/he issues.
  5. Maintaining an index for all operating procedures s/he issues, except that the PRDD shall maintain the index for all operating procedures issued by EPT members.

#### VARIANCES

- AA. A variance is a temporary deviation for a defined period of time, not to exceed 12 months, from a specific policy or procedure requirement. Under specific circumstances, variances may be renewable. A variance cannot be granted to an administrative rule or statutory requirement.
- BB. A variance to a policy directive or DOM, or to an operating procedure signed by the Director, may be granted only by the Director. A request for a variance shall be submitted on an Application for Temporary Policy Variance (CAJ-296) through the appropriate chain of command to the Executive Assistant to the Director, for submission to the Director.

#### DOCUMENTATION SYSTEM NOTICE

- CC. A Notice shall be issued to rescind a DOM, policy directive or, if developed in Central Office, operating procedure. Only the Director may rescind a DOM or policy directive, or an operating procedure issued by the Director. All other operating procedures issued in Central Office may be rescinded by the appropriate EPT member.
- DD. A Notice also may be issued by the Administrator of the Office of Policy and Hearings to explain substantive revisions to a policy directive or DOM, or to correct a typographical or other non-substantive error.
- EE. The PRDD shall retain each Notice signed by the Director and by the Administrator of the Office of Policy and Hearings. Each EPT member shall be responsible for maintaining documentation system each Notice s/he issues.

#### ANNUAL REVIEW

- FF. EPT members shall ensure there is a review at least annually of all policy directives and operating procedures in their area of responsibility as well as those which directly affect their operations or responsibilities. As part of this review, input shall be obtained from appropriate staff and, on policies and procedures affecting safety and security, from collective bargaining unit staff representatives.
- GG. EPT members shall submit a certification of the annual review to the Director no later than April 15 of each year.

#### OPERATING PROCEDURES

- HH. Deputy Directors and the Administrator of the Office of Policy and Hearings shall ensure that within 60 days of its effective date procedures necessary to implement this policy directive are developed.

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## AUDIT ELEMENTS

- II. A Primary Audit Elements List has been developed and will be provided to the EPT, Administrative Management Team and Wardens to assist with self audit of this policy pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

BM:OPH:01/23/01